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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 26th
August, 1983:—

BILL No. XVII OF 1983

A Bill further to amend the Indian Telegraph Act, 1885

BE it enacted by Parliament in the Thirty-fourth Year of the Republic
of India as follows:—

1. (1) This Act may be called the Indian Telegraph (Amendment)
Act, 1983.

Short title
and com-
mence-
ment.

(2) It shall come into force on such date as the Central Government
may, by notification in the Official Gazette, appoint, and different dates
may be appointed for different provisions of this Act.

13 of 1885.

2. In section 1 of the Indian Telegraph Act, 1885 (hereinafter refer-
red to as the principal Act), in sub-section (1), the word "Indian" shall
be omitted.

Amend-
ment of
section 1.

3. In section 3 of the principal Act,—

Amend-
ment of
section 3.

(a) in clause (1),—

(i) for the words "any appliance, instrument", the words
"telephone or any other instrument, appliance" shall be substi-
tuted;

(ii) after the word "electric", the word "optical" shall be
inserted;

(iii) in the *Explanation*, for the words and figures "frequencies lower than 3,000 giga-cycles per second", the words and figures "frequencies arbitrarily lower than 3,000 giga-Hertz" shall be substituted;

(b) after clause (7), the following clauses shall be inserted, namely:—

'(8) "cable chamber" means a room, hut or covered space for housing carrying, supporting or joining equipment associated with telegraph lines;

(9) "subscriber" means a person for whom a telephone has been installed under the provisions of this Act and the rules made thereunder, or under an agreement;

(10) "telegraph office" means any building or premises wherein a telegraph is established, maintained or worked by the Central Government for the use of the public and includes any part of such building or premises.

Explanation.—A building or any premises or any part thereof shall not be deemed to be a "telegraph office" within the meaning of this clause merely by reason of the location therein of a telephone provided to a subscriber;

(11) "tower" means a structure carrying or supporting devices for transmission, repetition for reception of electromagnetic emissions, including light, Radio or Hertzian waves.'

Amend-
ment of
section 4.

4. In sub-section (1) of section 4 of the principal Act, in the first proviso, for the words "the Central Government may grant a licence", the words "subject to such rules as may be made under this Act, the Central Government may grant a licence", shall be substituted.

Amend-
ment of
section 7.

5. In section 7 of the principal Act,—

(a) in sub-section (1), for the words "the conduct of", the words "the grant of licences to establish, maintain or work telegraphs and for the conduct of" shall be substituted;

(b) in sub-section (2),—

(i) after the word "line", wherever it occurs, the words "cable chamber, tower," shall be inserted;

(ii) clause (a) shall be relettered as clause (ad) thereof and before that clause as so relettered, the following clauses shall be inserted, namely:—

"(a) the form of application for the grant of a licence to establish, maintain or work telegraphs, the fees that shall be payable on such application and the consideration on payment of which such licence shall be granted;

(aa) the nature of the inquiry and the factors that shall be taken into consideration, being factors compliance with which in the opinion of the Central Government is necessary or expedient in the interests of the general public or for the proper conduct of telegraphs, before granting or refusing such licence;

(ab) the period for which and the terms and conditions subject to which such licence shall be granted;

(ac) the circumstances in which all or any of the provisions of any rule made under this section may be suspended with respect to any telegraph;";

(iii) in clauses (c) and (d), for the word "telegrams", the word "messages", shall be substituted;

(c) in sub-section (4),—

(i) after the word "line," at both the places where it occurs, the words "cable chamber, tower," shall be inserted;

(ii) in clause (a), after the word "lines," the words "cable chambers, towers," shall be inserted.

6. In section 7B of the principal Act, in sub-section (1), after the word "line," at both the places where it occurs, the words "cable chamber, tower," shall be inserted.

Amendment of section 7B.

7. In Part III of the principal Act, for the heading, the following heading shall be substituted, namely:—

"POWER TO PLACE TELEGRAPH LINES, CABLE CHAMBERS, TOWERS AND POSTS".

Substitution of new heading for heading to Part III

8. In section 10 of the principal Act,—

(a) for the opening paragraph, the following shall be substituted, namely:—

Amendment of section 10.

"The telegraph authority may, from time to time, place and maintain,—

(i) a telegraph line under, over, along, or across, and

(ii) cable chambers, towers and posts in or upon, any immovable property;";

(b) in the proviso, in clause (b), for the words "line or post", the words "line, cable chamber, tower or post", shall be substituted.

9. In sections 11, 13, 19 and 25A of the principal Act, for the words "line or post", wherever they occur, the words "line, cable chamber, tower or post", shall be substituted.

Amendment of sections 11, 13, 19 and 25A.

Amend-
ment of
section
14.

10. In section 14 of the principal Act,—

(a) in the opening paragraph, for the words and brackets “for the supply of gass or water, or of any drain (not being a main drain)”, the words and brackets “for the supply of gas, water or oil, or of any drain (not being a main drain), or of any cable”, shall be substituted;

(b) in clause (a) of the proviso, for the words “pipe or drain”, wherever they occur, the words “pipe, drain or cable”, shall be substituted.

Amend-
ment of
section 17.

11. In section 17 of the principal Act,—

(a) for the words “line or post”, wherever they occur, the words “line, cable chamber, tower or post”, shall be substituted;

(b) in sub-section (3), for the words “in his discretion”, the words “after giving an opportunity of being heard to the telegraph authority”, shall be substituted.

Amend-
ment of
section 18.

12. In section 18 of the principal Act, in sub-section (1), for the words “a Magistrate of the first or second class”, the words “an Executive Magistrate”, shall be substituted.

Amend-
ment of
section
19A.

13. In section 19A of the principal Act, in sub-section (2),—

(a) for the words “line or post”, the words “line, cable chamber, tower or post”, shall be substituted;

(b) for the words “a Magistrate of the first or second class”, the words “an Executive Magistrate”, shall be substituted;

(c) for the words “for a period not exceeding one month”, the words “for a reasonable period being not less than one month”, shall be substituted.

Amend-
ment of
section
20.

14. In section 20 of the principal Act,—

(a) in sub-section (1), for the words “one thousand rupees”, the words “five thousand rupees”, shall be substituted;

(b) in sub-section (2), for the words and figures “Code of Criminal Procedure, 1898,”, the words and figures “Code of Criminal Procedure, 1973,” shall be substituted.

5 of 1898.
2 of 1974.

Amend-
ment of
section
20A.

15. In section 20A of the principal Act, for the words “one thousand rupees”, the words “five thousand rupees”, shall be substituted.

Amend-
ment of
section
21.

16. In section 21 of the principal Act, for the words “fifty rupees”, the words “one thousand rupees”, shall be substituted.

Amend-
ment of
section
23.

17. In section 23 of the principal Act,—

(a) in clause (a), for the words “the signal-room of a telegraph office of the Government, or of a person licensed under this Act”, the words “any office wherein a telegraph is established, main-

tained or worked by the Government, or by a person licensed under this Act" shall be substituted;

(b) in clause (b), for the words "a telegraph office", the words "an office" shall be substituted;

(c) in clause (c), for the word "room", the word "office" shall be substituted;

(d) for the words "with fine which may extend to five hundred rupees", the words "with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both" shall be substituted.

18. In section 24 of the principal Act, for the words "one year", the words "three years" shall be substituted.

19. In section 25 of the principal Act, for the words "line, post", the words "line, cable chamber, tower, post" shall be substituted.

20. After section 27 of the principal Act, the following sections shall be inserted, namely:—

"27A. (1) If any person diverts or causes to divert any telegraph line by the employment of any device, appliance or other means, intending thereby to fraudulently use the telegraph of any subscriber without any payment, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) Where any diversion under sub-section (1) has resulted or would result in any pecuniary gain to the subscriber of any telegraph, such subscriber or any other person responsible for the custody of such telegraph shall be liable for such diversion unless such subscriber or other person proves that the diversion was made without his knowledge.

(3) No court shall take cognizance of an offence under this section except on a complaint made with the previous sanction in writing of the telegraph authority or any other officer duly authorised by it in this behalf.

27B. (1) If any person wilfully destroys or otherwise renders useless any plant, equipment or machinery installed in a telegraph office or does any other act which is likely to affect the working of such plant, equipment or machinery, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

(2) If any person maliciously defaces, disfigures or otherwise destroys any sign board or any equipment in a telegraph office, or any office exercising superintendence or control over such telegraph office, he shall be punished with fine which may extend to two hundred rupees.

Amendment of section 24.

Amendment of section 25.

Insertion of new sections 27A and 27B.

Penalty for diversion of telegraph lines for fraudulent use of a telegraph.

Penalty for destroying, etc., plant, equipment or machinery or committing any other act of mischief in a telegraph office.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, offences punishable under this section shall be cognizable".

2 of 1974.

Amend-
ment of
section
28.

21. In section 28 of the principal Act,—

(a) after the word "carelessness", the words " , wilful slackness, obstructions," shall be inserted;

(b) for the words "three months", the words "three years" shall be substituted;

(c) for the words "one hundred rupees", the words "one thousand rupees" shall be substituted.

Amend-
ment of
section
29A.

22. In section 29A of the Principal Act,—

(i) for the words "under the authority of, the Director-General" at both the places where they occur, the words "under the authority of, the Central Government or the Director-General" shall be substituted;

(ii) for the words "fifty rupees", the words "one thousand rupees" shall be substituted.

Insertion of
new section
32A.
Power to
investigate
cognizable
offences.

23. In Part IV of the principal Act, after section 32, the following section shall be inserted, namely:—

'32A. (1) Any gazetted officer of the Central Government authorised by it, by general or special order (hereinafter referred to as the "authorised officer") may, if he has reason to suspect the commission of a cognizable offence under this Act, investigate such offence.

(2) The authorised officer may, for the purposes of investigation of any such offence, exercise all or any of the following powers, namely:—

(a) require any person to furnish such information as he may consider necessary;

(b) enter and inspect, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or local or any public authority, as he thinks fit, any place or premises for the purpose of examining any telegraph apparatus, registers, records or other documents and require the production thereof for inspection;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the person in charge of the premises or any person whom he finds in such premises or place, and who, he has reasonable cause to believe, is an employee employed therein;

(d) make copies of, or take extracts from, any register, record, notice or other document, as he may consider relevant,

and where he has reason to believe that any such offence under this Act has been committed, search the premises or place and seize any telegraph apparatus, registers, records or other documents as he may consider relevant in respect of that offence and take photographs of such apparatus, records or other documents;

(e) exercise such other powers as may be necessary.

(3) Any person required to furnish any information or to produce any telegraph apparatus, registers, records or other documents to the authorised officer under sub-section (2) shall be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

45 of 1860.

2 of 1974.

(4) The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of that Code.

24. In section 34 of the principal Act, in sub-section (1),—

Amend-
ment of
section 34

(a) for the words "the Presidency-towns", the words "a metropolitan area" shall be substituted;

(b) for the words "Magistrate of the first or second class", the words "Executive Magistrate" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The functioning of the tele-communication services in the country is regulated by the provisions of the Indian Telegraph Act, 1885. Experience gained in the working of the Act in the recent past has revealed certain inadequacies in the Act and it is considered necessary to make certain changes in the Act so as to bring it in line with contemporary developments in the field of tele-communications and to meet the present day requirements.

2. The Bill accordingly provides, among other things, for the following changes in the Act, namely:—

(1) Certain new expressions are proposed to be incorporated in the Act like cable chamber, tower, etc., and the expression "telegraph" defined in the Act is proposed to be enlarged to specifically include telephones.

(2) It is proposed to expressly provide for the regulation of the grant and refusal of licences to establish, maintain and work telegraphs in any part of India by means of rules made under the Act and the terms and conditions subject to which such licences would be granted, will also be included in the rules. The power to make rules as contained in the Act at present specifically provides only for the conduct of all or any telegraphs established, maintained or worked by Government or by persons licensed under the Act.

(3) Of late, unauthorised diversion and use of subscribers, telegraph lines for making trunk and STD calls is causing severe loss and damage to both *bona fide* subscribers and the department. It is proposed to make such unauthorised diversion and use as an offence under the Act and to provide for the penalty of imprisonment up to three years or with fine or with both. Where such diversion has resulted in any pecuniary gain to a subscriber, such subscriber or any other person responsible for the custody of such telegraph is proposed to be made liable for such diversion.

(4) The wilful destruction of a plant, equipment or machinery installed in a telegraph office or doing any other act which is likely to affect the working of such plant, equipment or machinery will be an offence punishable with imprisonment for one year or with fine.

(5) The malicious act of defacing or disfiguring or otherwise destroying any signboard or any equipment in a telegraph office or an office exercising superintendence and control over such telegraph office will also be an offence punishable with fine up to Rs. 200.¹

(6) The Central Government will also be empowered to authorise Gazetted Officers of Government to investigate cognizable offences under the Act. The powers to investigate would include powers to require any person to furnish information, powers of entry and inspection and such other powers as may be necessary.

(7) It is also proposed to increase the penalties provided for offences under the Act. Opportunity is also being availed of to make certain consequential and verbal amendments in the Act.

3. The Bill seeks to achieve the above object.

NEW DELHI;

The 8th August, 1983.

V. N. GADGIL.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to amend the first proviso to sub-section (1) of section 4 of the Indian Telegraph Act, 1885 so as to specifically provide that the power of the Central Government to grant a licence to any person to establish, maintain or work a wireless telegraph within any part of India will be subject to such rules as may be made under section 7 of the Act. Clause 5 of the Bill seeks to amend section 7 of the Act to give effect to the above provision and to make certain minor amendments so as to enable the Central Government to make rules in relation to certain new expressions incorporated in the Act like cable chamber, tower, etc. The matters with respect to which rules may be made would, among other things, relate to the form of application for the grant of a licence to establish, maintain or work telegraphs, the fees payable on such application, the nature of the inquiry and the factors that shall be taken into consideration before granting or refusing a licence, the period for which and the terms and conditions subject to which such licence shall be granted and other related matters.

2. The matters with respect to which rules may be made relate to matters of procedure of detail and as such, the delegation of legislative power is normal in character.

SUDARSHAN AGARWAL,
Secretary-General.